

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, July 1, 2015, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2589

A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, SECTIONS 13.1 AND 13.2, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE RECOVERY OF RESCUE EXPENSES

This Bill proposes to amend Chapter 6, Article 13, Sections 13.1 and 13.2 of the Kaua'i County Code 1987, as amended, relating to the recovery of rescue expenses by amending the definition of "Recoverable Expenses" to include fuel expenses and to clarify the language contained in Section 13.2 with Hawai'i Revised Statutes, Section 137-2, when an individual's actions or omissions constitute an intentional disregard for safety.

All interested persons who wish to present their comments may do so at the public hearing. Written testimonies prior to the hearing would be appreciated. Copies of the proposed ordinance are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at its subsequent meetings. Meeting notices are posted at least 6 days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2589 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 3, 2015, by the following vote:

AYES: Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura,	
Rapozo	TOTAL - 7,
NOES: None	TOTAL - 0,
EXCUSED & NOT VOTING: None	TOTAL - 0.

Lihu'e, Hawai'i
June 4, 2015

/s/ Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII, 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

(One publication - The Garden Island - June 14, 2015)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13,
SECTIONS 13.1 AND 13.2, KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO THE RECOVERY OF RESCUE EXPENSES**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The purpose of this Bill is to amend Chapter 6, Article 13, Sections 13.1 and 13.2 of the Kauai County Code 1987, as amended, relating to the recovery of rescue expenses. This Bill would amend the definition of "Recoverable expenses" to include fuel expenses and would clarify and align the language contained in Section 13.2 with State law when an individual or individuals' actions or omissions constitute an intentional disregard for safety, which includes, but is not limited to, intentionally disregard of a warning or notice.

Hawaii Revised Statutes, Section 137-2, allows for government entities who engage in a search or rescue operation and incur search and rescue expenses to seek reimbursement if the need for search or rescue was caused by any act or omission by an individual or individuals with intentional disregard for safety, such as disregarding a warning or notice.

The Kauai County Council finds that there has been an increase in search and rescue efforts utilizing the County's Air 1 Helicopter on Kauai. Emergency rescues that require the use of Air 1 have a direct fiscal impact to the County of Kauai's budget, including, but not limited to, overtime pay and fuel costs. These emergency rescues at times place County emergency personnel involved in the search and rescue operation in precarious situations that could have been avoided if the individual or individuals adhered to warnings or notices.

SECTION 2. Chapter 6, Article 13, Section 6-13.1 of the Kauai County Code 1987, as amended, is hereby amended as follows:

"Sec. 6-13.1 Definitions.

As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"County" means the County of Kauai.

["Gross negligence" means conduct which is either intentional or committed under circumstances exhibiting a reckless disregard for the safety of oneself or of others.]

"Person" means any individual, corporation, association, partnership, firm, trustee, or legal representative.

“Recoverable expenses” means those expenses that are reasonable, necessary and allocable to the rescue operation. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine fire fighting. Expenses allowable for recovery may include, but are not limited to:

- (1) Materials and supplies acquired, consumed and expended specifically for the purpose of the rescue operation.
- (2) Compensation of employees for the time and efforts devoted specifically for the purpose of the rescue operation.
- (3) Rental or leasing of equipment used specifically for the rescue operation such as protective equipment or clothing, scientific and technical equipment, helicopters, boats or bulldozers.
- (4) Repair costs for equipment owned by the County that is damaged during the rescue operation.
- (5) Replacement costs for equipment owned by the County that is damaged beyond use or repair, if the equipment was a total loss and the loss occurred during the rescue operation.
- (6) Special technical services specifically required for the rescue operation such as costs associated with the time and efforts of technical experts or specialists not otherwise provided by the County.
- (7) Other special services specifically required for the rescue operation.
- (8) Medical expenses incurred as a result of the rescue operation.
- (9) Legal expenses that may be incurred as a result of the rescue operation, including efforts to recover expenses pursuant to this Article.
- (10) Fuel expended for the purpose of the rescue operation.

“Rescue operation” means the effort to free or remove an individual or individuals placed in a situation of distress or peril from any confinement, violence or danger.

SECTION 3. Chapter 6, Article 13, Section 6-13.2 of the Kaua'i County Code 1987, as amended, is hereby amended as follows:

"Sec. 6-13.2 [Gross Negligence.] Intentional Disregard for Safety.

Any and all persons who[, because of gross negligence,] cause or contribute to the placement of an individual or individuals in a situation of distress or peril, via any act of omission which constitutes an intentional disregard for the individual or individuals' safety, and which results in a rescue operation shall be liable to the County for all recoverable expenses resulting from the rescue operation. Acts or omissions constituting an intentional disregard for safety include, but are not limited to, intentionally disregarding a warning or notice. This shall be in addition to any and all penalties provided by law."

SECTION 4. If any provision of this Ordinance or the application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 5. Ordinance material to be repeal is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 6. This Ordinance shall take effect upon its approval.

Introduced by:



MASON K. CHOCK

DATE OF INTRODUCTION:

June 3, 2015

Līhu'e, Kaua'i, Hawai'i


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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2589, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 3, 2015, by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
June 4, 2015



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i